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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

In re	)	Case No. 05-30143-C-7
TEAYA GARCIA,	)	DC No. EJS-1
	)	
Debtor.	)	

**FINDINGS OF FACT AND CONCLUSIONS OF LAW  
ON MOTION TO VACATE STAY**

These findings of fact and conclusions of law are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014.

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(G).

Findings of Fact

Debtor filed this voluntary chapter 7 petition on August 18, 2005.

On August 30, 2005, The Lily Company ("movant") filed a

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1 motion, notice, and declaration requesting that this court lift  
2 the automatic stay in order to proceed with an eviction action  
3 against debtor. The hearing on the motion was set for October  
4 25, 2005. No opposition to the motion was filed. Upon review  
5 of the record, the court determined that the written record was  
6 adequate and that no oral argument was necessary.

7 The motion establishes that movant owns real property  
8 commonly known as 1 Shoal Court #25, Sacramento, California.  
9 The debtor leases said property from movant and is in default  
10 under the terms of the lease agreement.

11  
12 Conclusions of Law

13 The automatic stay of acts against the debtor in personam  
14 and of acts against property other than property of the estate  
15 continues until the earliest of the time when the bankruptcy  
16 case is closed, dismissed, or an individual in a chapter 7 case  
17 is granted a discharge. 11 U.S.C. § 362(c). However, the  
18 automatic stay may be terminated earlier if debtor fails to  
19 adequately protect the secured party's interest, § 362(d)(1),  
20 and, with respect to a stay of an act against property, the  
21 debtor does not have equity in the property, § 362(d)(2)(A),  
22 and the property is not necessary to an effective  
23 reorganization. § 362(d)(2).

24 Because the debtor leases the property and does not own  
25 the property, the property is not property of the estate, and  
26 hence the debtor has no equity in the property. Therefore the  
27 motion will be granted and the movant may proceed with the  
28 eviction.

1 An appropriate order will issue.

2 Dated: October 27, 2005

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5 UNITED STATES BANKRUPTCY JUDGE  
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**CERTIFICATE OF SERVICE**

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

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United States Courthouse  
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Sacramento, CA 95814

Dated: 10/31/05

  
Deputy Clerk